IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5737 OF 2005

Kamlesh Kumar Mishar ...Applicant
Vs.
The State of Maharashtra ...Respondent

Shri. A.R. Pande i/by A.S. Mirashi for the Applicant.
Mr. K.V. Saste, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : SEPTEMBER 16, 2005.

P.C.:

1. Heard the learned Counsel appearing for the Applicant and the learned A.P.P. for the State. The allegation made in the F.I.R. which is registered for offences punishable under sections 463, 467, 466, 465, 468, 471 and 420 of the Indian Penal Code is that the Applicant produced a fabricated Arm Licence for the purposes of purchasing a weapon. The licence which is produced by the Applicant is allegedly issued by Government of Nagaland and it is revealed that the same is fabricated. Admittedly, the said licence is in the custody of the Respondent-State.

2. The case of the Applicant is that he is in employment as Security Guard in the State of Gujarat and through another person by paying necessary amount and by furnishing necessary documents, he obtained the licence. The learned Counsel for the Applicant submitted that he tendered the said licence to a shop in Mumbai for purchasing a gun and the shop-keeper

reported to the police when he suspected that the licence was not genuine. He submitted that the Applicant has played no role in fabricating the licence. He submitted that the custody of the Applicant is no longer required.

3. The learned A.P.P. appearing for the State pointed out that the licence produced by the Applicant was found to be fabricated. He submitted that the Applicant has no fix place of abode in the State of Maharashtra and therefore, in all probability the Applicant may abscond if he is enlarged on bail.

4. I have considered the submissions. All offences registered against the Applicant are triable by the Court of learned Magistrate. Therefore, there is no possibility of early conclusion of the trial. The original licence is already in custody of the prosecution. The learned A.P.P. stated that the Investigating Officer is not aware whether the Applicant has any criminal antecedents.

5. One of the ground given by the learned Sessions Judge for rejecting the Application of the Applicant is that he does not have permanent place of abode in Mumbai or Maharashtra. Considering the facts of the case, relief cannot be denied to the Applicant on this ground. However, stringent conditions will

have to be imposed.

6. Hence, I pass the following order:

: O R D E R :

i) The Applicant shall be enlarged on bail in connection with **C.R.No.196 of 2005 registered with Pydhonie Police Station,** subject to furnishing a personal bond of **Rs.20,000/-** with one or two local sureties in the like amount.

ii) The Bail is granted subject to condition that till filing of the chargesheet, the Applicant will attend before the concerned Investigating Officer on every Saturday between 11.00 a.m. to 01.00 p.m. After the chargesheet is filed, the Applicant will report to the concerned Investigating Officer once in a month till conclusion of the trial.

iii) The order of bail will be given effect only after the Applicant furnishes to the Investigating Officer the detailed address of place of residence where he proposes to stay after he is enlarged on bail. The Applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the Investigating Officer.

iv) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The Applicant shall co-operate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) The parties to act upon an authenticated copy of this order.

JUDGE